

REMARKS

Claim 1 is amended by incorporating the subject matter of original claims 2 and 3.

Claims 2-23 and 25 are canceled. Claim 24, 26 and 27 are amended to depend only from claim

1. No new matter is presented.

Claim 3 and 5-25 were withdrawn from further consideration pursuant to 37 C.F.R. § 1.142(b), as being drawn to a non-elected invention, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on March 31, 2008.

In view of the amendment to claim 1, Applicants respectfully submit that the amended claims meet the requirement of unity of invention and should be examined as an invention sharing a single inventive concept. In the Restriction Requirement mailed March 7, 2008, the Examiner stated that Group I (Claims 1, 2 and 4) and Group II (Claims 1, 3 and 4) are not so linked as to form a single general inventive concept under PCT Rule 13.1, etc. However, Applicants submit that Umehara nowhere discloses “the combination of olanexidine and polyoxyethylene higher alkyl ethers”, which is a special technical feature (STF) under PCT Rule 13.2. Thus, the amended claims should be examined as an invention sharing a single general inventive concept.

Response to Claim Rejection under 35 U.S.C. § 103

Claims 1, 2, 4 and new claims 26-27 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Ishikawa et al.

Applicants traverse the rejection.

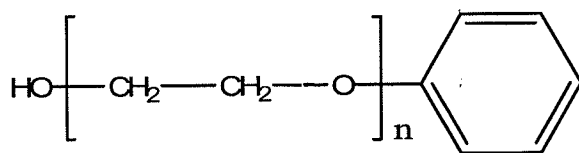
Applicants submit that the present invention is unobvious over Ishikawa (US 5376686) for the reasons of record as set forth in the Amendment filed January 21, 2009. Specifically, the chemical structure of the surfactant of Ishikawa is fundamentally different from those represented by Formulae (1) and (2) of Claim 1 of the present invention.

The present invention is directed to a disinfectant and/or bactericidal aqueous composition, containing an olanexidine acid addition salt, and at least one polyoxyethylene-based nonionic surfactant selected from polyoxyethylene higher alkyl ethers as recited in amended claim 1. An object of the present invention is to provide an aqueous composition that contains olanexidine or a salt thereof dissolved in a high concentration.

In contrast, Ishikawa *et al.* merely discloses that a monobiguanide derivative can be used in the form of a solution, a dispersion or a suspension by dissolving, dispersing or suspending a specified amount of the biguanide derivatives in water or an organic solvent. Since Ishikawa *et al.* does not mention or even recognize that olanexidine or a salt thereof is only slightly soluble in water, there is no motivation that would lead a skilled artisan to increase the concentration of a solution of olanexidine or a salt thereof.

Furthermore, the polyoxyethylene phenylether of Ishikawa *et al.* is different from the polyoxyethylene higher alkyl ether of the present invention in its structure.

Specifically, the structure of the polyoxyethylene phenyl ether used in Ishikawa *et al.* is shown below:



In this regard, it is clear that the polyoxyethylene phenylether of Ishikawa *et al.* is different from the polyoxyethylene higher alkyl ether and the polyoxyethylene alkylphenyl ether of formulas (1) and (2), respectively, recited in amended claim 1. Accordingly, a person having ordinary skill in the art would not be motivated from the disclosure of Ishikawa *et al.* to increase the concentration of the solution of the olanexidine or a salt thereof using the “polyoxyethylene higher alkyl ether” of the present invention. For at least this reason the present invention is not rendered obvious by Ishikawa *et al.*

Additionally, Applicants submit that the present invention provides unexpectedly superior results. Example 2 in the present specification shows that the bactericidal activity of the composition comprising polyoxyethylene alkylphenyl ether is unexpectedly superior to that of a composition comprising polyoxyethylene phenyl ether in Preparation Examples 1 and 2. For this additional reason the present invention is patentable over the prior art.

Accordingly, Applicants respectfully request withdrawal of the rejection.

Conclusion

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,

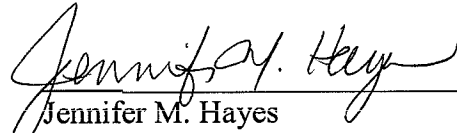
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